**THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

**WRIT PETITION No.23851 OF 2005**

**Dated 8th November 2005**

**Between:**

K.Venkateswarlu S/o.K.Bhoomaiah

**…Petitioner**

And

APSRTC, rep.by its Managing Director,

Musheerabad, Hyderabad & another.

**…Respondents**

**THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

**WRIT PETITION No.23851 OF 2005**

**O R D E R:**

The petitioner is employed as driver in the APSRTC, and is working in the Bheemghal Depot of Nizamabad District. He was issued a charge sheet, dated 26.8.2005, alleging that on account of his rash and negligent driving on 27.7.2005, a pedestrian died near Rajaramnagar gate at Armoor. The petitioner submitted his explanation, denying his involvement. An enquiry officer was appointed, and he submitted his report on 14.10.2005, holding that the petitioner is guilty of the charge leveled against him. Through letter, dated 17.10.2005, the second respondent invited the comments of the petitioner for the enquiry report. The petitioner, in turn, submitted his comments on 24.10.2005. Not being satisfied with the same, the second respondent issued a show-cause notice, dated 25.10.2005, for removal. The petitioner challenges the same.

Sri V.Narasimha Goud, learned counsel for the petitioner, submits that one of the management witnesses, by name K.P.Reddy, has categorically deposed that the person died, on account of hitting a hard surface, in the process of crossing the road, from one side to another, and the bus did not hit the said person, at all. He contends that when the evidence adduced on behalf of the management itself suggested that the death was not on account of any hit by the bus, there was absolutely no justification for the second respondent, in proposing to inflict the punishment.

Learned Standing Counsel for the respondents, on the other hand, submits that the petitioner was issued only a show-cause notice, and it is always open to him, to plead all the relevant facts in his explanation. He submits that no prejudice can be said to have been suffered by the petitioner, as of now, and the writ petition is not maintainable against a show-cause notice.

In the disciplinary proceedings initiated against the petitioner, an enquiry officer was appointed, and he, in turn, submitted a report, holding that the charge leveled against the petitioner is proved. The second respondent invited the comments of the petitioner to the enquiry report. In his reply, petitioner made specific reference to the deposition of an employee of the Corporation, by name K.P.Reddy, as well as the conductor, who was in the bus on the relevant date. No discussion, as such, was undertaken by the second respondent, in the instant show-cause notice, in relation to the points urged by the petitioner. Be that as it may, the opinion formed by the second respondent, in this regard, cannot be said to be final. The mater is at large, till passing of final orders. Even now, the petitioner can urge the points in his defence, and nothing precludes the second respondent, from taking the same into account, notwithstanding the fact that the comments of the petitioner were invited, on an earlier occasion. It cannot be said that the finding recorded by the enquiry officer has assumed finality, at this stage.

For the foregoing reasons, the writ petition is disposed of, leaving it open to the petitioner to submit an explanation to the show-cause notice, raising all questions of fact and law. The second respondent shall deal with the contentions urged on behalf of the petitioner, while passing the final orders. There shall be no order as to costs.

**8th November 2005**

Note: Issue C.C. in three days.

(B/o)

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